

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

ASSOCIATION OF AMERICAN  
UNIVERSITIES, *et al.*,

Plaintiffs,

v.

NATIONAL SCIENCE FOUNDATION, *et al.*,

Defendants.

Case No. 1:25-cv-11231-IT

**DEFENDANTS' NOTICE  
IN RESPONSE TO THE COURT'S JUNE 17, 2025 ORDER (DOC. NO. 71)**

Defendants submit this notice in response to the Court's June 17, 2025 Order. Doc. No. 71. In the Order, the Court stated that: "Defendants shall (1) provide written notice by June 18, 2025, of the continued stay to all institutions that have pending funding applications that may be affected by the Policy Notice, and (2) promptly notify the court once they have done so." Defendants submit this notice to inform the Court that NSF has complied with the Court's order.

As set forth in the June 18, 2025 declaration of Jason Bossie, the National Science Foundation's ("NSF") Deputy Office Head in the Office of Budget, Finance, and Award Management, attached as Exhibit 1, on June 18, 2025, NSF posted a revised alert on Research.gov, NSF's proposal preparation and submission portal used by all organizations for submitting proposals, management of post-award activities, and agency communications. Ex. 1 at ¶ 8. The revised alert, in a red banner at the top of the page with a red exclamation point, states: **\*\*NEW UPDATE: IMPLEMENTATION**

PAUSED\*\* . . .” *Id.* A “See New Details” link in that banner takes the user to <https://www.nsf.gov/policies/document/indirect-cost-rate>, the page containing Policy Notice NSF 25-034. *Id.* NSF put a yellow banner at the top of the notice with a black exclamation point that states: “NSF is temporarily pausing implementation of the NSF Policy Notice: Implementation of Standard 15% Indirect Cost Rate, NSF 25-034, until the District Court for the District of Massachusetts issues a decision, in accordance with a voluntary stay filed in the United States District Court for the District of Massachusetts. New NSF awards issued during this pause will not implement NSF 25-034, but will include a term applying NSF 25-034 for the entirety of the award upon a court decision permitting application of the policy.” *Id.*

In addition, NSF updated its Policy Office, <https://www.nsf.gov/bfa/dias/policy>, and Indirect Cost Rate Policies, <https://www.nsf.gov/funding/proposal-budget/indirect-costs>, web pages to communicate guidance on delayed implementation of the standard 15% Indirect Cost Rate limit policy for Institutes of Higher Education (IHEs). Ex. 1 at ¶ 9.

On June 18, 2025, NSF initiated email communications to the NSF external community to provide individualized written notice of the continued stay. Given the significant amount of time required to operationalize mass email communications of this nature, NSF prioritized individualized email notification to: all organizations with pending proposals received to date; and the official email addresses of all organizations with an active award. Thereafter, NSF will further notify: all organizations that submitted a proposal to the NSF within the past seven (7) years; all Principal Investigators and co-Principal Investigators on active awards; and all users with financial certifier permissions

activated. Ex. 1 at ¶ 10. The email notification announces the extension of NSF's previously-issued temporary pause in implementation of NSF Policy Notice: *Implementation of Standard 15% Indirect Cost Rate*, until the District Court for the District of Massachusetts issues a decision, in accordance with a voluntary stay filed in the United States District Court for the District of Massachusetts. *Id.*

Dated: June 18, 2025

Respectfully submitted,

BRETT A. SHUMATE  
Assistant Attorney General

LEAH B. FOLEY  
United States Attorney

BRIAN C. LEA  
Deputy Associate Attorney General

KIRK T. MANHARDT  
Director

MARC S. SACKS  
Deputy Director

/s/ I-Heng Hsu  
BETHANY R. THERIOT (D.C. Bar 1022065)  
I-HENG HSU (NY. Reg. No. 4904033)  
Trial Attorneys  
U.S. Department of Justice  
Civil Division  
Corporate/Financial Section  
P.O. Box 875  
Ben Franklin Stations  
Washington D.C. 20044-0875  
(202) 616-3619  
bethany.theriot@usdoj.gov  
i-heng.hsu@usdoj.gov  
*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: June 18, 2025

/s/ I-Heng Hsu  
I-Heng Hsu